

**MINUTES OF PUBLIC MEETING
FOR THE CORRECTIONS OFFICER RETIREMENT PLAN LOCAL BOARD
FOR THE JUDICIARY**

A Public Meeting of the Corrections Officer Retirement Plan Local Board for the Judiciary was convened Tuesday, September 8, 2020 at 10:00 a.m., Conference Room 109, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona.

Board Members Present in Conference Room 109: Kevin Kluge

Board Member Present by Conference Call: Jason Hathcock; Jennifer Fish; Mark Smalley; Scott Mabery

Board Member Absent:

Also Present in Conference Room 109: Vanessa Haney, Board Secretary; Cynthia Kelley, Board Attorney (conference call); Jason Jimenez, Applicant #20-02 (conference call)

Call to Order:

Approval of the Minutes:

August 4, 2020 – Public Meeting Minutes

MOTION: A motion to approve the public minutes of the August 4, 2020 meeting was made by Jennifer Fish. The motion was seconded and passed; minutes stand approved. **CORP 2020-47**

Disability Application #20-02 – IME Review

The Board received Application #20-02 for Ordinary Disability benefits from Jason Jimenez on June 29, 2020.

The applicant is a Maricopa County Juvenile Detention Officer with 5.027 years of credited service with CORP.

The applicant identified the disabling conditions as: “stroke and four heart attacks”.

The applicant was notified via certified letter that the Board would consider the application at this meeting and of the applicant’s right to attend.

The applicant initialed the Waiver of Confidentiality provision, to allow discussion of the medical condition in open public meeting.

The applicant provided medical reports of findings and treatment with the application. The application and medical reports were provided for the Board.

The criteria for Ordinary Disability benefits per A.R.S. §38-886.01 are: “Ordinary disability” means a physical condition that the local board determines will prevent an employee from totally and permanently performing a reasonable range of duties within the employee's department or a mental condition that the local board determines will prevent an employee from totally and permanently engaging in any substantial gainful activity.

Dr. Charles Breed performed an Independent Medical Examination of the applicant on August 26, 2020. A copy of Dr. Breed’s IME report was provided to the Board.

The Local Board will need to determine eligibility based on the Independent Medical Evaluation. Any motion to approve or disapprove the application should include a reference to the Independent Medical Evaluation upon which the determination is based. The Board can consider any medical evidence that the applicant may want to provide; however, the statutes are clear that a determination of disability shall be based on the IME. Material conflicts in medical evidence must be resolved by findings of the Board. Disability determinations by the State Comp Fund or other workers’ compensation bodies are not binding on the Local Board.

A copy of A.R.S. §38-886.01 governing Local Board consideration of applications for Ordinary Disability was included for reference purposes.

The Local Board Secretary informed the Board that the C11/C12 was not uploaded to the site as part of the meeting material because of the discrepancy in years of service that was presented at the last meeting. She noted that the current amount listed in the meeting action item reflects the updated actual amount. The Local Board Secretary was instructed to upload the forms for the Board’s review after the meeting.

The Chair noted for the record that applicant #20-02, Jason Jimenez, was available via conference call. Mr. Jimenez declined to make a statement.

Board Member Jason Hathcock asked the applicant if his employment had already been terminated. Mr. Jimenez replied that his employment terminated on August 24, 2020.

Board member Jason Hathcock stated he was in a favor of approving the application based on: the application being submitted timely, the medical evidence provided, and the Individual Medical Evaluation report that determines the member disabled without an attributing pre-existing condition.

The Chair inquired if a three-year review would be ideal for this case. Board member Jason Hathcock stated that a six-year review would be more appropriate because the Dr. Breed did not indicate improvement is expected.

MOTION: A motion (1) approve the application for Ordinary Disability Retirement benefits from Applicant #20-02, Jason Jimenez, based on the findings of the Independent Medical Evaluation conducted by Dr. Charles Breed for the Local Board, as set forth in the report dated August 26, 2020 and the Form C5-LB-O dated August 26, 2020; (2) approve an Ordinary Disability Benefit for Jason Jimenez in about the amount of \$676.57 (3) review this matter again in six years pursuant to A.R.S. §38-886.01.D., was made by Jason Hathcock. The motion was seconded and passed unanimously. CORP 2020-48

Disability Application #20-02 – IME Decision

The applicant is a Maricopa County Adult Surveillance Officer with 21.870 years of credited service with CORP.

The applicant identified the disabling conditions as: “low back injury”.

The applicant was notified via certified letter that the Board would consider the application at this meeting and of the applicant’s right to attend.

The applicant initialed the Waiver of Confidentiality provision, to allow discussion of the medical condition in open public meeting.

The applicant provided medical reports of findings and treatment with the application. The application and medical reports were provided for the Board.

The applicant’s physical exam dated May 17, 2007 was provided. The exam report identifies the following pre-existing conditions: occasional back pain-history of surgery. Mild to moderate hearing deficit in high frequencies.

The criteria for Accidental Disability benefits per A.R.S. §38.881 are: "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's department and was incurred in the performance of the employee's duties.”

A copy of A.R.S. §38-886 governing Local Board consideration of applications for Accidental Disability was included for reference purposes.

The Local Board Secretary informed the Board that the applicant was not present via conference call; however, the applicant did provide a statement to be read at the meeting.

The statement detailed the following: his position as a surveillance officer, items required for the member to carry as part of his position, and the training required to respond/arrest.

The Chair asked the Board Attorney for input regarding the verbiage included in the new hire physical exam report that indicates history of back surgery and how it was unclear if that is noted a future contributing factor or as part of resolved medical history.

Board Attorney Cynthia Kelly suggested disclosing the exam and concerns to the IME doctor. Board member Jason Hathcock agreed that the IME would note a decision on the final IME report including if the notation listed on the membership physical exam attributes to the disability claim.

Board member Jennifer Fish inquired if staff could specifically include more questions or expand on the pre-existing section on the form to be sent to the doctor. Board Attorney Cynthia Kelley advised that the Board could list the dates collected from the membership physical exam when sending the questionnaire.

There was discussion among the Board whether it is permissible to include potential light duty for the member as a decision factor. Board Attorney Cynthia Kelly advised that it could be problematic to include light duty as an indicator for denial because if a member is determined to be disabled and cannot continue to do the specific work outlined for a CORP designated position then the member would be entitled to the benefit.

Board member Mark Smalley stated that accommodations vary by case and county. The Chair acknowledged it would be prudent to find out if light duty is available. Jason Hathcock stated that light duty might be a temporary solution in certain cases, but that certain positions, such as the applicants, would require specific yearly training that light duty would not account for long-term.

Mr. Hathcock asked if the responsibility to inquire about light duty would fall on the member or staff. The Chair responded that both parties would be responsible. The Chair instructed the Local Board Secretary to have the information provided in conjunction with the IME review.

MOTION: A motion to refer Applicant #20-03 for an Independent Medical Evaluation for Accidental Disability. was made by Scott Mabery. The motion was seconded and passed unanimously. **CORP 2020-49**

Update – Yearly CORP Membership Audit

The Local Board Secretary informed the Board that 51 discrepancies have been discovered by staff. Board member Jason Hathcock inquired if the Board would be provided a full report. The Local Board Secretary responded that staff would create a report and list the reasons for the discrepancies. The Local Board Secretary added that most of the discrepancies are from the counties not notifying staff about terminations, transfers, etc.

The Chair instructed the Local Board Secretary to compose correspondence to send to the counties that further explain communication expectations between all entities (Administrative Office of the Courts, Public Safety Personnel Retirement System, and the counties)

Approval of Normal Retirement Benefits:

There were 10 applications for Normal Retirement benefits submitted for the Board's approval pursuant to A.R.S. § 38-893 (D).

MOTION: A motion to approve the payment of Normal Retirement benefits to the following applicants in about the following amounts effective August 1, 2020 unless otherwise noted was made by Jennifer Fish. The motion was seconded and passed unanimously. **CORP 2020-50**

Sharon Adams	\$2,880.70
Michele Albo	\$3,934.19; Reverse DROP Estimate: \$195,712.50
Craig Burchwell	\$1,837.05
Leslie Clark	\$2,315.27
Yezenia Garcia	\$2,277.66
James Meyer	\$4,400.10; Reverse DROP Estimate: \$190,504.14

Tracy Morley	\$2,739.94
Carlos Perez	\$3,923.50
Cory Rhodes	\$2,868.40
Liberty Torres	\$2,121.78

Approval of Death Benefit:

An application for a death benefit was submitted for the Board's approval pursuant to A.R.S. §38-887.

Member: Karen Smith (Deceased 07-18-2020)

Benefit Payable to Designated Beneficiary: Julie Hellrung: \$1,855.76

MOTION: A motion to approve the payment of a death benefit to the following applicant in about the following amount was made by Mark Smalley. The motion was seconded and passed unanimously. **CORP 2020-51**

Member: Karen Smith (Deceased 07-18-2020)

Benefit Payable to Designated Beneficiary: Julie Hellrung: \$1,855.76

Acknowledgement of CORP Physical Exam Final Letter

A physical examination report has not been received for the member listed below. A certified letter was sent to the member regarding non-receipt of the CORP physical examinations within 60 days of receipt of the membership form.

<u>Name</u>	<u>Date Letter Sent</u>
Jesse Fortiz	June 22, 2020

A.R.S. § 38-884.B provides in part: "Any employee who fails or refuses to submit to the medical examination prescribed in this section is deemed to waive all rights to disability benefits under this article."

The Chair noted for the record that the physical examination Jesse Fortiz was not received within 60 days of receipt of their membership applications and that final letter requesting the examinations were sent via certified mail.

Approval of Membership:

The Local Board may consider and vote on the approval of the following requests for membership or defer decision to a later date:

Amezcuca, Anna	Pima	8/8/2020
Avila, Eduardo	Maricopa	7/13/2020
Bennett, Rachel	Pima	8/9/2020
Borboa, Matthew	Pima	7/19/2020
Fortiz, Jesse	Pima	7/19/2020
Gazda, Matthew	Yuma	7/19/2020

Gonzalez Montes, Marisol	Yuma	8/2/2020
Lopez, Anais	Pima	7/19/2020
Martinez Borboa, Anthony	Pima	8/9/2020
Plaza, Alyssa	Yuma	8/2/2020
Pool, Andrew	Mohave	7/26/2020
Ramirez, Hector	Mohave	8/9/2020
Wilson, Marcus	Maricopa	8/2/2020

MOTION: A motion to approve the 19 applicants listed on the agenda for this meeting for membership in CORP pursuant to A.R.S. §38-893.D and to note for the record that the physical examinations for Matthew Borboa, Andrew Pool, Hector Ramirez and Marcus Wilson identified a physical or mental condition or injury that existed or occurred before their date of membership in the plan, was made by Jason Hathcock. The motion was seconded and passed unanimously. **CORP 2020-52**

Future Agenda Items:

The Chair informed the Board that the remaining meetings listed for 2020 will be held telephonically.

Board member Jason Hathcock inquired if a representative from PSPRS will be present via conference call for the upcoming meeting. The Local Board Secretary responded that PSPRS suggested to wait until January 2021 to address current/upcoming policy changes. The Chair instructed the Local Board Secretary to keep track of all communication to PSPRS and to note any pending issues to address. The Chair advised the Board that they may also submit any PSPRS inquiries/issues to the Local Board Secretary.

Call to the Public:

No members of the public addressed the Board.

The meeting was adjourned at 10:37 a.m.

Transcribed September 9, 2020.